EXHIBIT 39

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF MASSACHUSETTS, et al., Plaintiffs, v. NATIONAL INSTITUTES OF HEALTH; et al., Defendants.	Civil Action No. _____

Declaration of Mari Ostendorf

I, Mari Ostendorf, hereby declare:

1. I am the Vice Provost for Research in the Office of Research at the University of Washington, a position I have held since 2021. As Vice Provost for Research, I have oversight over the pre-award process, reporting of institution-wide research statistics, and several research compliance offices. In addition, I oversee two major research units: the Applied Physics Laboratory and the Washington National Primate Research Center. Prior to holding this position, I served as Associate Vice Provost for Research in the Office of Research since 2017.
2. As the Vice Provost for Research, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff and colleagues in the School of Medicine and the Office of Finance, Planning and Budgeting.
3. I am providing this declaration to explain certain impacts of National Institutes of Health ("NIH") Notice Number NOT-OD-25-068, *Supplemental Guidance to the 2024 NIH Grants*

Policy Statement: Indirect Cost Rates, which purports to immediately reduce indirect costs payments to 15%. In fiscal year 2024 University of Washington received over 1,000 NIH awards, with funding totaling $668,977,129, including flow-through funding via partner institutions.

4. The University of Washington has a Negotiated Indirect Cost Rate Agreement ("NICRA") with NIH, effective July 1, 2024, until amended. The Indirect Cost ("IDC") Rate in the University of Washington's NICRA varies based on the costs associated with the specific location. The 2024 on-campus rate is 55.5%. Federal organized research rates (excluding training grants) vary from 26% for research off campus to 83.1% for research in the Primate Center. For research at the School of Medicine South Lake Union facilities, the rate is 76.5%. For the Applied Physics Lab, the rate is 19%, because they have a special arrangement with the federal government to charge administrative costs as direct costs. Training grants have lower rates as specified by NIH, since they primarily cover educational costs.
5. The University regularly draws federal funds in alignment with agreed to statements of work inclusive of indirect expenses borne by the University and recovered from the federal government that support the scopes of work obligated by both the University and the NIH.
6. The University bears expenses that are attributable to federal grants and contracts and recoverable as indirect costs. Examples of these expenses include:

- Water, sewer, electrical, gas;
- Debt service for research buildings for which we would be threatened by a default on our debt without indirect cost recovery on federal grants and contracts;
- Cost of insuring, maintaining and renewing those buildings;
- Rent, maintenance and operations of facilities that exclusively accommodate research;
- Our compliance and regulatory infrastructure;
- The proper handling and disposal of hazardous waste, in accordance with applicable federal and state laws;
- The cost of insurance and our captive management; and

- Administrative costs, such as the award lifecycle management process, human resources, payroll, information technology, cyber security program, and financial management.

Notably, **time and again, our required federal facilities and administrative cost studies prove** that the University's total calculated indirect cost, which adheres to federal uniform guidance, is higher than the rates we've negotiated with the federal government. Therefore, like most of our peers, the University is providing the federal government a discount from the true cost of conducting research activities at the University of Washington. **We are already subsidizing federal grants and contracts on the administrative side.** In addition, the federal facilities and administrative cost calculations follow federal requirements and exclude, or cap, activities deemed outside of the scope of the federal government's responsibilities.

7. NIH's reduction of University of Washington's IDC rate(s) will eliminate approximately $90-$110 million in funding that University of Washington uses to support its active NIH research programs. Should the University of Washington lose this funding, it will have to scale back ongoing clinical trials and stop enrolling new patients in clinical trials for diseases where there is no good treatment available outside of trials. While UW would only take such measures in a manner that is safe and ethical for currently enrolled participants, for patients that have placed their trust in UW for what is in many cases their last option at lifesaving care, and for those who held off of other treatment and clinical trial opportunities to pursue treatment at UW, any scaling back in their level of care would be a devastating breach of trust. The damage to these patients' lives and their relationship with their care team at UW would be nearly impossible to rectify. Additionally, any limit on our ability to start new trials will delay lifesaving treatments that rely on decades of research and development.

8. Similarly, the loss of indirect costs will limit our ability to continue many studies that rely on animal research to ensure treatments are safe for clinical trials, since animal research oversight is sustained by IDC funds. We will need to close down facilities and euthanize animals intended for studies that are no longer viable, limiting future innovation in translational medicine, therapeutic development, and other critical advancements in human and animal health.

9. If IDC is reduced, UW will be able to support less research and reduced staffing levels will delay work from hiring researchers, to getting the supplies they need, keeping the IT systems running, and processing bills, etc. This will lead to layoffs of staff and damage to the local economy.

10. In this declaration I highlight the impact on loss of indirect cost funds on two programs, the UW School of Medicine and The Washington National Primate Research Center. However, the impact will be felt across the University, including the School of Public Health, School of Arts and Sciences, School of Dentistry, School of Pharmacy, School of Nursing, School of Social Work, and College of Engineering, as well our state's economy. Based on a Fiscal Year 2023 economic impact study, University of Washington research impacts for the State of Washington include: $2.6 billion generated in the Washington economy from UW research; 10,641 total jobs supported sustained statewide by UW research (direct, indirect and induced); and $93.5 million in Washington state ($63 million) and local ($30.5 million) tax revenue. The biomedical research at UW, much of which is supported by NIH, is a major contributor to that impact. The reduced rate will cause significant effects on the level of supporting workforce the University of Washington is able to employ.

UW School of Medicine

11. UW Medicine ranks among the top academic research institutions to receive National Institutes of Health (NIH) funding. In fiscal year 2024, for instance, NIH funded 657 UW School of Medicine grants, totaling more than $385 million.

12. The UW School of Medicine is a leader in regional medical education and conducts world-leading research across 31 clinical and biomedical research departments and multiple research institutes and centers with areas of focus including behavioral health, neuroscience and Alzheimer's disease, heart disease and stroke, infectious diseases, cancer, health metrics, genomics and precision medicine, protein design and regenerative medicine.

13. From making kidney dialysis possible to winning the Nobel Prize for bone-marrow transplantation and most recently, the Nobel Prize for computational protein design, UW Medicine has a long tradition of leading-edge research that has yielded some of the most important innovations in the history of modern medicine.

14. NIH federal research grants have enabled incredible medical advances by UW School of Medicine faculty, including these recent developments:

- Identification of how a new area of the brain is impacted by Alzheimer's disease, potentially allowing for an earlier diagnosis via MRI;
- Development of a new gene therapy treatment for Duchenne muscular dystrophy;
- Development of a new care model to treat pain more effectively for traumatic brain injury patients; and
- Identification of new markers that predict diabetic kidney disease in young adults with type 2 diabetes.

15. NIH funding currently supports the following key UW School of Medicine clinical trials and centers:

- **Kidney disease:** A clinical trial testing whether home blood pressure monitoring is more effective than monitoring only before dialysis in improving treatment and preventing cardiovascular disease events, especially for patients in rural areas. This is a multi-center clinical trial (UW-prime and UCSF). It is recruiting patients all across Washington state, including rural areas.

- **Diabetes:** A clinical trial testing whether using continuous glucose monitoring to guide lifestyle modification and medications to reduce blood sugar will improve kidney and cardiovascular disease outcomes.
- **Alzheimer's:** The National Alzheimer's Coordinating Center, based at the UW School of Public Health, collates and distributes the data from the nation's 35 Alzheimer's Disease Research Centers. This allows thousands of researchers across the country study the key questions in cognitive disease across all sites.
- **Pediatric cancer:** A clinical trial to test a method to determine whether CART immunotherapy alone will work for children and young adults with B Lineage Acute Lymphoblastic or whether they will need a stem cell transplant to avoid relapse.

The Washington National Primate Research Center

16. The Washington National Primate Research Center (WaNPRC) is an example program that would be significantly impacted by the reduced indirect cost rate. WaNPRC is one of only seven National Primate Research Centers in the world and the University of Washington has served as the steward of this national resource for over 60 years. WaNPRC provides critical infrastructure that has and continues to support thousands of scientists, and their NIH funded research projects focused on developing new medical innovations. No other animal model more closely models humans and the proof of the value of non-human primate research is in WaNPRC's record of directly advancing new medical interventions that have and continue to save lives and improve human health.

17. WaNPRC's pioneering biomedical advances that benefit human health today include: brain-interface research that enables people to control robotic limbs with brain activity coded by a computer; the first controlled brain-function study in a nonhuman primate, which led to technology restoring movement in people with spinal cord injuries; and the first cochlear implants that provide a cure for deafness.

18. Ongoing biomedical research at WaNPRC that will be crippled from loss of NIH funding, includes: a novel gene therapy strategies that have successfully shrunk the HIV reservoir, paving the way toward a cure for chronic HIV infection and a platform that could be used to

cure other chronic viral infections; stem-cell based therapy used to repair damaged heart muscle; and development of a novel tool to study the causes of stroke that could lead to new interventions to prevent or treat stroke in people.

19. The cut in IDC rates will cripple WaNPRC's life-saving research. WaNPRC is supported by two base grants from the NIH totaling over $15 million. These grants, including both direct and indirect costs, and the fees charged to individual investigator research grants comprise its total operating budget of $30.5 million. WaNPRC supports 800 nonhuman primates, employs 170 people with expertise in veterinary care and animal research and provides the specialized lab spaces and equipment unique to nonhuman primate research. A cut in IDC will result in loss of nearly $5 million per year in resources needed to support our infrastructure. To make up for this cost, WaNPRC would have to substantially increase the rates it charges to NIH-funded grants. We estimate this will result in charging each grant about $100,000 more in direct costs. Researchers do not have sufficient funds on their NIH projects to cover these costs, which jeopardizes both the research and the support of students on the project.
20. With a reduction of administrative funding for compliance and facilities costs and the constraints of current investigator budgets, the WaNPRC would be required to shut down facilities, directly impacting the 170 individuals employed by the Center. In addition, with other NPRCs impacted, there will be animals that cannot be sold or relocated to other research facilities. There is limited sanctuary space available, and the UW would not be able to cover the high costs associated with lifetime sanctuary care, so these animals would have to be euthanized. Currently, at least 300 researchers are supported on NIH-funded grants that depend on WaNPRC infrastructure. Without this infrastructure, both basic and translational

biomedical research in the region will be greatly limited, as well as the training of our future workforce.

21. The *Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates*, NOT-OD-25-068, states: "The United States should have the best medical research in the world. It is accordingly vital to ensure that as many funds as possible go towards direct scientific research costs." As described above, the net impact of this new policy would have the opposite of what is intended. It will directly reduce the resources needed to support the research and cripple the ability of the United States to continue to support the best biomedical research in the world. Moreover, it will compromise the training and development of future generations of scientists in the United States.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 9th day of February 2025, in Seattle, WA.

Mari Ostendorf

Mari Ostendorf
Vice Provost for Research
University of Washington